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Attorney for Donna Rowe

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,)	No. Cr.S 05-128 LKK
)	
)	
Plaintiff)	REQUEST AND ORDER
)	STAYING
v.)	SELF-SURRENDER DATE
)	UNTIL MOTION FOR BAIL
DONNA ROWE)	PENDING APPEAL DECIDED
)	BY COURT OF APPEALS
Defendant)	
)	

RELEVANT PROCEDURAL HISTORY

Following her conviction and sentencing on February 26, 2010, defendant Rowe filed a timely notice of appeal¹.

On March 23, 2010, the District Court entertained and denied a Motion for Bail Pending Appeal. The District Court also set April 30, 2010 for defendant Rowe's self surrender.

1 Following an agreement between the parties, defendant
2 Rowe's self-surrender date has been rescheduled for May 21,
3 2010.

4 On April 26, 2010 defendant filed a renewed Motion for Bail
5 Pending Appeal in the Ninth Circuit Court of Appeals, USCA No.
6 10-10189. On May 7, 2010 the government filed its opposition. No
7 decision by the Court of Appeals has issued as of this writing.

8 **DISCUSSION**

9 **A STAY OF THE SELF SURRENDER DATE IS**
10 **AUTOMATIC PENDING FINAL DECISION BY THE**
11 **COURT OF APPEALS ON APPELLANT'S MOTION FOR**
BAIL PENDING APPEAL

12 On July 18, 2005, defendant Rowe was released on her own
13 recognizance without opposition from the government. Her release
14 status has remained unchanged.

15 Circuit Rule 9-1.2 Release Pending Appeal, states in
16 pertinent part:

17 (e) If the appellant is on bail at the time the
18 motion is filed in this court that bail will remain in
19 effect until the court rules on the motion. (Rev.
20 1/1/01 - changed from (d) to (e)).

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22
23
24
25 ¹ For reasons not entirely clear, defendant's appeal was not
processed to the Court of Appeals until April 19, 2010 and then
not docketed until April 26, 2010.

1 In *U.S. v Fuentes*, 946 F.2d 621 (9th Cir. 1991) the Court of
2 Appeals held:

3 The intent of this rule is to provide for an
4 automatic stay of an appellant's surrender
5 date if he or she is on bail at the time the
6 motion for bail pending appeal is filed in
7 this court.

8 The operation of the rule, however, is
9 automatic and provides an appellant, who is
10 still released, whether on bond or on his or
11 her own recognizance, with an automatic stay
12 of surrender upon the filing in this court
13 of a motion for bail pending appeal.

14 For these reasons defendant Rowe respectfully requests this
15 Court to stay its order of self surrender pending final decision
16 on appellant's motion for bail pending appeal by the Ninth
17 Circuit Court of Appeals.

18 Counsel for appellant Rowe has no objection to filing a
19 status report with this Court on a weekly basis advising Court
20 and counsel of the status of appellant's motion in the Appellate
21 Court. Should the Appellate Court deny appellant's motion, a new
22 self-surrender date may be scheduled.

23 DATED: May 18, 2010

Respectfully submitted,

24 /s/MICHAEL BIGELOW

Michael B. Bigelow

Attorney for Defendant/Appellant


Donna Rowe

ORDER

IT IS ORDERED THAT: For good cause shown, defendant Donna Rowe's self surrender date is hereby stayed pending the outcome of her motion for bail pending appeal in the Ninth circuit Court of Appeals.

IT IS FURTHER ORDERED THAT: Counsel for Donna Rowe on appeal shall file a weekly status report with this Court reflecting progress, if any, on her motion for bail pending appeal.

DATED: May 19, 2010


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT